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"There would seem to be no legal objection to regarding a will so executed as a valid will. The time, place, or circumstances of the execution of an instrument in form testamentary are material only as they bear upon the question of intent. It is well settled, of course, that an instrument offered for probate as a will, however formal may have been its execution, will not be admitted to probate as such unless it was executed by the testator with testamentary intent. If it is executed under compulsion, undue influence, as a part of a ceremonial, for the purpose of deception, or for the purpose of perpetrating a jest, it is not a will, but the fact that it was executed at a time when the testator was taking a degree in a secret order is not alone sufficient to reject it as a valid testamentary disposition of property. A valid will may be made under these circumstances as well as under any other. The question being one of intent, if it fairly appears that the testator intended it as his will, there is no valid legal reason, because of the place of its execution, why the courts should not give it effect as such."

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**Workmen's Compensation Act—Death Resulting from Breathing Gas.**—In *General American Tank Car Corporation v. Weirick*, 133 N. E. 391, the Appellate Court of Indiana held that in a proceeding under the Workmen's Compensation Act to recover compensation for death, where there was evidence that deceased, though diseased, was performing his duties with substantial regularity, and that he breathed gases and fumes from molten brass, but had been affected by the gas before, the Industrial Board was justified in finding that death was the result of an accident, and not of disease.

The court said in part: "There was some evidence that the deceased breathed the fumes and gases arising from molten brass and was thereby accidentally injured, which injury resulted in death, and we hold that the Industrial Board was fully justified in its finding that the deceased came to his death by accidental means while in the due course of his employment. An accident has been repeatedly defined by this court, industrial appeals, as an unlooked for mishap, an untoward event, which is not expected or designed. *United Paper Board Co. v. Lewis*, 65 Ind. App. 356, 117 N. E. 276; *Haskell-Barber Car Co. v. Brown*, 67 Ind. App. 178, 117 N. E. 555; *Puritan Bed Spring Co. v. Wolfe*, 68 Ind. App. 330, 120 N. E. 417. An injury may be the result of accidental means, though the act involving the accident was intentional. *U. S. Casualty Co. v. Griffis*, 186 Ind. 126, 114 N. E. 83, L. R. A. 1917F, 481; *Western Commercial Travelers' Ass'n v. Smith*, 85 Fed. 401, 29 C. C. A. 223, 40 L. R. A. 653. The principle is well expressed in the last case cited, in which the court defines 'accidental means' as follows:

"'An effect which is not the natural or probable consequence of

the means which produced it, an effect which does not ordinarily follow and cannot be reasonably anticipated from the use of those means, an effect which the actor did not intend to produce and which he cannot be charged with the design of producing under the maxim to which we have adverted, is produced by accidental means, it is produced by means which were neither designed nor calculated to cause it. Such an effect is not the result of design, cannot be reasonably anticipated, is unexpected, and is produced by an unusual combination of fortuitous circumstances; in other words, it is produced by accidental means.'

"While it appears that the decedent had been affected by the poisonous gas before, it is apparent that he did not anticipate or design the serious consequences resulting in his death. Yet the evidence abundantly justifies the inference that the immediate cause of the death was the injury by the inhalation of the noxious gas. That the deceased man was diseased at the time of his injury cannot be denied, but such disease had not progressed to the point of disability. He was with substantial regularity performing the duties of his employment up to the time of his injury, and if the disease was thereby accelerated, so as to produce death so soon after the injury the injury must be regarded as the cause of the death. Under such circumstances, the dependents are entitled to recover. In *re Bowers*, In *re Colan*, In *re Williams*, 65 Ind. App. 128, 116 N. E. 842; *Puritan Bed Spring Co. v. Wolfe*, 68 Ind. App. 330, 120 N. E. 417; *Indiana Car & Equipment Co. v. Celotto*, 69 Ind. App. 341, 121 N. E. 834; *Geizel v. Regina Co.* (N. J. Sup.), 114 Atl. 328."